

SERVICE DATE — LATE RELEASE MAY 3, 2016

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36007

CENTRAL GULF ACQUISITION COMPANY—ACQUISITION AND OPERATION
EXEMPTION—CG RAILWAY, INC.

Decided: May 3, 2016

On April 4, 2016, Central Gulf Acquisition Company (CGAC) filed a verified notice of exemption pursuant to 49 C.F.R. § 1150.31 to acquire certain assets from CG Railway, Inc. (CGR), a Class III rail carrier, and to operate an intermodal rail/water transportation service across approximately 1,000 miles of the Gulf of Mexico, between the Alabama State Docks in Mobile, Ala., and Coatzacoalcos, in Veracruz, Mexico. According to CGAC, this transaction includes the assignment to CGAC of a Master Agreement among the Alabama State Port Authority (ASPA), the Terminal Railway Alabama State Docks, International Shipholding Corporation, and CGR, providing for the lease of 2,850 feet of track and land on ASPA's property at the Port of Mobile in Mobile, Ala. As a result of the transaction, CGAC states that it will provide what it characterizes as a railroad car ferry service currently provided by CGR.¹

In conjunction with its notice of exemption, CGAC also requested a partial waiver of the 60-day labor notice requirements of 49 C.F.R. § 1150.32 to enable this transaction to be consummated by or before May 4, 2016. CGAC certifies that it posted a notice at the workplace

¹ Also on April 4, 2016, CGAC's corporate owner, West Branch Intermediate Holdings LLC (West Branch) and Continental Rail LLC (Continental), a subsidiary of West Branch, filed a verified notice of exemption in Docket No. FD 36006 to continue in control of CGAC upon CGAC's becoming a Class III rail carrier as a result of its acquisition and operation of certain assets currently owned by CGR. On April 20, 2016, the notice of exemption in Docket No. FD 36006 was served and published in the Federal Register (81 Fed. Reg. 23,345). (A correction to the notice of exemption also was served on April 20, 2016, and was published in the Federal Register on April 25, 2016 (81 Fed. Reg. 24,158).) The Board notes that its authority is permissive and not self-executing; that is, West Branch may only proceed with its continuance-in-control transaction, and therefore exercise the exemption authority, if CGAC obtains the authorization to acquire and operate certain assets of CGR.

of CGR employees on April 4, 2016, thus providing 30 days' notice of the transaction before it is consummated.

It appears that CGAC seeks authority to acquire and operate a railroad car ferry service across international waters and into foreign territory. However, the Board does not have jurisdiction over operations outside of the United States. See 49 U.S.C. § 10501(a)(2) (the Board's jurisdiction "applies only to transportation in the United States"); see also, e.g., CSX Transp. Inc.—Aban. Exemption—in St. Clair Cty., Mich., AB 55 (Sub-No. 510X), slip op. 1 n.1 (ICC served July 14, 1995) (authorizing through exemption the abandonment of a rail car float operation between St. Clair County, Mich., and the United States-Canada boundary line, while noting that the full scope of the rail car float operation extended to Ontario, Canada). Further, it does not appear that CGR ever sought and received the Board's authority to operate the portion of the railroad car ferry service within the Board's jurisdiction that CGAC now seeks to operate. Therefore, CGAC will be directed to supplement its notice to clarify that it is requesting that the Board exempt the transaction only insofar as it applies to transportation in the United States. CGAC should also indicate whether CGR ever received the Board's authority to operate its rail car ferry service and, if so, provide the details of that authorization. Lastly, CGAC will be directed to include a map that more clearly indicates the areas to be served pursuant to 49 C.F.R. § 1150.33(f). The Board will direct CGAC to file a supplemental submission addressing these issues by May 13, 2016. In the meantime, this proceeding will be held in abeyance pending further Board order.²

It is ordered:

1. This proceeding is held in abeyance pending further Board order.
2. CGAC is directed to file the supplemental information identified in this decision by May 13, 2016.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

² CGAC's request for partial waiver of the 60-day labor notice requirements of 49 C.F.R. § 1150.32 will be addressed in a separate decision.